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9 **IN THE UNITED STATES DISTRICT COURT**

10 **FOR THE DISTRICT OF ARIZONA**

11 IN RE: Bard IVC Filters Products
12 Liability Litigation

No. 2:15-MD-02641-DGC

13 **STIPULATION TO AMEND CASE**
14 **MANAGEMENT ORDER NO. 38**

15 (Assigned to the Honorable David G.
16 Campbell)

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties
18 through their undersigned counsel that the present schedule for the completion of
19 discovery in *Tinlin* is not feasible, and hence, the case should be the May Bellwether Trial
20 with the dates outlined and so ordered in CMO 38 (Doc. 12853). Additionally, the parties
21 have agreed on the following pre-trial discovery schedule and deadlines:

- 22
- 23 1. Plaintiff to complete case-specific expert disclosures by [November 16, 2018.
 - 24 2. Parties to obtain updated medical records by November 12, 2018.
 - 25 3. Treating physician and fact witnesses' depositions by December 10, 2018.
 - 26 4. Defense to complete case-specific expert disclosures by December 17, 2018.
 - 27 5. Case specific expert depositions by January 18, 2019.
- 28

1 The remaining deadlines set by the Court (Doc. 12853) remain as ordered and are
2 provided here for the convenience of the Court and parties:

3 1. By **March 1, 2019**, the parties shall provide the Court with proposed
4 changes to the questionnaire. The Court will consider these proposals in finalizing the
5 questionnaire.

6 2. The Clerk shall mail the questionnaire to 200 jurors no later than **March 8,**
7 **2019**. The questionnaire will instruct the prospective jurors to return it to the Court no
8 later than **April 5, 2019**.

9 3. A thumb drive will be prepared for counsel (one for each side) containing copies
10 of the questionnaires and will be available for pickup at the jury office on **April 12, 2019**.
11 The thumb drive and any paper copies made by counsel must be returned to the Court by
12 counsel on the day of jury selection.

13 4. On **April 19, 2019**, the Court will provide the parties with a list of prospective
14 jurors the Court proposes to excuse for hardship on the basis of their responses to the first
15 question in the questionnaire.

16 5. The Court will hold a final pretrial conference case on **April 30, 2019 at 10:00**
17 **a.m.** At the final pretrial conference, counsel will be permitted to challenge the Court's
18 excusal of any of the listed jurors for hardship. If counsel do not object to the Court's
19 proposed excusal of a particular juror for hardship, that juror will be excused from further
20 involvement in this case. After hearing counsel's objections to hardship excusals, the
21 Court will determine which of the challenged jurors should be excused for hardship and
22 which should appear for voir dire. In addition, counsel shall be prepared to make
23 challenges for cause to jurors on the basis of information contained in their questionnaires.
24 These challenges should be limited to jurors who clearly could not serve as a fair juror on
25 the basis of their questionnaire answers. The Court will rule on these challenges at the
26 final pretrial conference. All prospective jurors who returned questionnaires and who have
27 not been excused for hardship or successfully challenged for cause will be candidates for
28 *voir dire*.

1 6. On **May 13, 2019, at 9:00 a.m.**, 50 prospective jurors will be called to Court to
 2 appear for *voir dire*. The Court will permit counsel to ask follow-up questions of
 3 individual jurors based on information contained in the juror questionnaires. Counsel
 4 should not venture into new subjects – they should limit their follow-up questions to the
 5 items covered in the questionnaire. Following *voir dire*, the Court will hear and rule on
 6 challenges for cause.

7 7. The Court will seat 9 jurors. Each side will have 3 pre-emptory strikes.

8 8. The Court anticipates that opening statements and evidence will begin on the
 9 afternoon of **May 13, 2019**.

10 **B. Dispositive and *Daubert* Motions.**

11 Dispositive and *Daubert* motions shall be filed by **February 1, 2019**, responses by
 12 **March 1, 2019**, and replies by **March 15, 2019**.

13 **C. Motions *in Limine*.**

14 Motions *in limine*, limited to three pages each, shall be filed by **March 29, 2018**.
 15 Responses to motions in *limine*, limited to three pages each, shall be filed by **April 12,**
 16 **2019**. No replies shall be filed.

17 **D. Deposition Designations.**

18 The parties shall provide deposition designations by **March 29, 2019**.

19 **E. Final Pretrial Order.**

20 The proposed final pretrial order shall be submitted by **April 12, 2019**. The Court
 21 will enter a separate order governing the materials that should be submitted with the final
 22 pretrial order.

23 **F. Final Pretrial Conference.**

24 The Court will hold a final pretrial conference on **April 30, 2019 at 10:00 a.m.**

25 **G. Trial Days.**

26 Trial will be held on **May 13-17, 20-24, and 28-31**. Plaintiff will be allotted 33
 27 hours of trial time and Defendants will be allotted 30 hours of trial time. This schedule
 28 should allow the case to get to the jury by the morning of May 30, 2019.

RESPECTFULLY SUBMITTED this 11th day of October, 2018.

GALLAGHER & KENNEDY, P.A.

SNELL & WILMER, L.L.P.

By: /s/ Ramon Rossi Lopez

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*Attorneys for C. R. Bard, Inc. and
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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of October, 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Marilyn B. Wass